

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JAMES MATLEAN,

Case No. 3:16-cv-00233-HDM-VPC

Petitioner,

ORDER

v.

BRIAN WILLIAMS, et al.,

Respondents.

Before the court is 28 U.S.C. § 2254 habeas petitioner James Matlean's motion for appointment of counsel (ECF No. 10).

There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). Here, it appears that the claims may be somewhat complex. Additionally,

1 petitioner is serving a life sentence without the possibility of parole. Accordingly,  
2 petitioner's motion for appointment of counsel is granted.

3 **IT IS THEREFORE ORDERED** that petitioner's motion for appointment of  
4 counsel (ECF No. 10) is **GRANTED**.

5 **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of  
6 Nevada (FPD) is appointed to represent petitioner.

7 **IT IS FURTHER ORDERED** that the Clerk shall ELECTRONICALLY SERVE the  
8 FPD a copy of this order, together with a copy of the amended petition for writ of habeas  
9 corpus (ECF No. 8). The FPD shall have thirty (30) days from the date of entry of this  
10 order to file a notice of appearance or to indicate to the court its inability to represent  
11 petitioner in these proceedings.

12 **IT IS FURTHER ORDERED** that this court's order dated January 5, 2017 (ECF  
13 No. 9) is **VACATED**. No further action by respondents is required until further notice of  
14 this court.

15 **IT IS FURTHER ORDERED** that after counsel has appeared for petitioner in this  
16 case, the court will issue a scheduling order, which will, among other things, set a  
17 deadline for the filing of a second-amended petition.

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21 DATED: April 5, 2017.

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24 HOWARD D. MCKIBBEN  
25 UNITED STATES DISTRICT JUDGE  
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